

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

**PLAINTIFFS' MOTION TO MODIFY THE COURT'S JULY 9, 2013 ORDER  
REQUIRING THE PARTIES TO FILE A JOINT SUBMISSION OF  
UNDISPUTED FACTS**

COME NOW the Plaintiffs in the above-entitled action and state:

1. In its July 9, 2013 Order (Doc. # 142), this Court directed counsel for the parties as follows:

To facilitate the Court's review of the matter, the Court directs the parties to file, no later than August 19, 2013, a Joint Submission of Undisputed Facts, providing in list form all facts the parties agree are material and undisputed. Each fact shall be followed by citation to the record, using ECF docket and page numbers. If there are any undisputed facts that one side contends are material and the other side contends are immaterial, such facts, also supported by citation to the record, shall be provided, without argument, on separate lists as part of the joint submission. The plaintiffs shall prepare an initial draft for discussion purposes and shall send it to the defendants no later than July 29, 2013; this draft should not be filed with the Court. Thereafter, the parties shall work together to prepare the joint submission.

2. Pursuant to this Order, Plaintiffs' counsel prepared a draft and sent it to Defendants' counsel on July 29, 2013.

3. Defendants' counsel was unable to respond to the draft until August 14, 2013.

4. Counsel for Plaintiffs and Defendants conferred on August 14, 2013, and are not able to agree to a joint submission of undisputed material facts. The parties disagree not only about whether certain facts are material but also about whether certain facts are disputed.

5. Plaintiffs will revise their statement to address some of the concerns raised by Defendants in order to limit the areas of disagreement. However, Plaintiffs do not believe that it will be possible to file a joint submission.

6. Plaintiffs therefore ask for leave for the parties to submit separate statements of undisputed material facts, and propose the following schedule: Plaintiffs will file their statement of facts by 10:00 a.m. on Friday, August 16, 2013 (in advance of the Court's original deadline); and Defendants will file their response to Plaintiffs' statement no later than Monday, August 19, 2013 (the Court's original deadline for the parties' joint submission).

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order:

1. Amending its July 9, 2013 Order to permit the parties to file separate statements of material facts; and
2. Requiring Plaintiffs to file their statement of facts by 10:00 a.m. on August 16, 2013, and Defendants to file their responsive statement no later than August 19, 2013.

Dated this 14<sup>th</sup> day of August, 2013.

Respectfully submitted,

/s/ Christopher Brook

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*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 14, 2013, I electronically filed the foregoing Motion to Modify the Court's July 9, 2013 Order with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing.

/s/ Christopher Brook

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